

**BOARD OF APPEALS CASE NO. 5235**

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**BEFORE THE**

**APPLICANT: Laurie Myers**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to construct a deck  
and disturb the Natural Resource District;  
1926 Thomas Run Circle, Bel Air**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 3/6/02 & 3/13/02**

**HEARING DATE: April 15, 2002**

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**Record: 3/8/02 & 3/15/02**

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicant, Laurie Myers, is seeking a variance, pursuant to Sections 267-41D(5)(e) and (6) of the Harford County Code, to disturb the Natural Resource District in an R2/COS ,Urban Residential with Open Space.

The subject parcel is located at 1926 Thomas Run Circle, Bel Air, MD 21015, within the Village of Thomas Run subdivision, and is more particularly identified on Tax Map 41, Grid 2D, Parcel 532, Lot 436. The parcel consists of 2000± square feet, is zoned R2/COS/NRD and is entirely within the Third Election District.

Appearing before the Hearing Examiner was the Applicant, Laurie Myers, who testified that she owns a townhome within the Village of Thomas Run. The Natural Resource District (NRD) comes to within 4 feet of her house. Her home has a basement with walkout and above that is a double sliding door intended to access a second-story deck. The Applicant wishes to construct a 12 foot by 18 foot deck on the rear of her home. Nearly every other home in the area has a deck and she would like to enjoy outdoor use of her home like other homeowners do. The NRD is part of a 75 foot stream buffer and is presently maintained as grass lawn. The Applicant did not feel that any adverse impact would result from her deck and stated that her property was unique because of the proximity of NRD to the rear of her home. She is not asking for any more than other homeowner's have and her deck will be similar in size and appearance to many others in her neighborhood.

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Mr. Anthony McClune appeared as representative of the Department of Planning and Zoning. Mr. McClune stated that the NRD on the Applicant's parcel is part of a 75 foot stream buffer that is currently maintained as lawn. There was evidence that the NRD was disturbed by grading in the past. The Department found that the parcel was unique due to its proximity to NRD (essentially the entire back yard of the parcel is NRD) and that construction and use of the deck represented a minimal intrusion into the NRD area that would not result in adverse impact or materially impair the purposes of the Code. The Department recommends approval of the Applicant's request.

### **CONCLUSION:**

The Applicant, Laurie Myers, is seeking a variance, pursuant to Sections 267-41D(5)(e) and (6) of the Harford County Code, to disturb NRD in an R2/COS Urban Residential with Open Space.

Section 267-41D(5) and (6) provide as follows:

- (5) Conservation requirements. The following conservation measures are required within this district:
  - (a) All development shall minimize soil disturbance during development and shall reduce soil erosion and sedimentation. When developing site plans, consideration shall be given to maintaining the existing drainageways within the Natural Resources District.
  - (b) Clearing or removal of natural ground cover and vegetation in preparation for development shall be minimized. Site development shall be clustered or designed in such a manner to preserve large contiguous tracts of woodland. Clearing of woodlands shall not reduce the area coverage of trees below seventy percent (70%). Along streams, a buffer with minimum width of fifty (50) feet, plus four (4) feet for each one-percent increase in slope, measured from the water's edge, shall be provided. Trees within the buffer may be harvested to remove diseased, insect-damaged or fire-damaged trees to salvage the same or reduce potential stream blockage due to fallen timber. Essential access roads may be permitted to traverse the buffer.

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- (c) Sensitive environmental areas, including significant/special natural features, significant wildlife habitats, saturated soils, highly erodible soils and designated scenic areas shall not be disturbed during any development.
- (d) Any land in excess of twenty-five-percent slope for an area of forty thousand (40,000) square feet or more shall not be cleared of natural ground cover or vegetation in preparation for development, except for necessary roads and utilities. Not more than thirty percent (30%) of any land in excess of fifteen-percent slope and less than twenty-five-percent slope shall be cleared of natural ground cover or vegetation in preparation for development.
- (e) Nontidal wetlands shall not be disturbed by development. A buffer of at least seventy-five (75) feet shall be maintained in areas adjacent to wetlands.
- (6) Variances. The Board may grant a variance to Subsection D(3), (4) or (5) of the Natural Resources District regulations upon a finding by the Board that the proposed development will not adversely affect the Natural Resources District. Prior to rendering approval, the Board shall request advisory comments from the Zoning Administrator, the Soil Conservation Service and the Department of Natural Resources.

Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the Applicant must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

In accordance with the statute, comments were requested from both the Soil Conservation District and Maryland Department of the Environment. No comments were received from either agency indicating that there were no apparent issues with this request.

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In this case, the Hearing Examiner finds that the subject parcel is unique. Its rear yard, unlike nearly any other residential parcel is almost entirely encumbered by NRD. Any use by the Applicant or her family of the rear yard represents an intrusion into the NRD and a deck is a minimal intrusion that will not result in adverse impacts to adjoining parcels or the NRD. This NRD has already been disturbed and is currently used as lawn. The house, like many other townhomes, is constructed to accommodate walkouts to a deck on two levels.

The Hearing Examiner recommends approval of the subject request, subject to the following conditions:

1. The Applicant obtain any and all necessary permits and inspections.
2. The Applicant submit a landscaping plan to the Department of Planning and Zoning for review and approval prior to the issuance of any permits.

**Date: MAY 13, 2002**

**William F. Casey  
Zoning Hearing Examiner**